IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 122 OF 2001

1. State of Goa,
   through the
   L.A.O., South Goa,
   Sub-Division, Quepem, Goa.

2. The Executive Engineer,
   WD, XXV (NH) P.W.D.,
   Gogol, Margao ... Appellants.

Versus

Mrs. Julieta Lacerda,
residing of House No. 691,
Dandevada, Chinchinim,
Salcete, Goa. .... Respondents.

Ms. W. Coutinho, Government Advocate for the Appellants.

Respondent served absent.

CORAM: R. M. LODHA, J.

DATE: 13th OCTOBER, 2005.

ORAL JUDGMENT:

In this First Appeal the Land Acquisition Officer, South Goa, Sub-Division III and the Executive Engineer W.D. XXIV, P.W.D., Gogol, Margao seek to challenge the legality and correctness of the Judgment and Award dated 5th January, 1999 passed by IInd Addl. District Judge, South

Goa, Margao in Land Acquisition Case No.182/1992 whereby the said Court awarded compensation @ Rs. 100/- per sq.m. for acquisition of 82 sq.m. of land from property under Survey No.413/1 situated at village Chinchinim, Taluka Salcete belonging to the respondent.

2. The State Government issued Notification under S.4(1) of the Land Acquisition Act dated 23.5.1988 that was published in the Official Gazette on 18.8.1988 for acquisition of the aforesaid land along with other land for widening and improvement of National Highway No.17. Upon conclusion of the acquisition proceedings, the Land Acquisition Officer fixed the market value of the acquired land at Rs.13 per sq.m. and offered compensation accordingly. The respondent-claimant (owner) was dissatisfied with the offer of compensation made by the Land Acquisition Officer and, accordingly, sought reference under S.18 of the Land Acquisition Act. The matter was, thus, referred by the Land Acquisition Officer to the Civil Court.

3. Before the Reference Court, the claimant examined her husband as AW1. She also examined the Engineer Gabriel Rodrigues (AW2), Vijay Dias (AW.3) and Rosa Coutinho (AW.4). The claimant produced the sale deed dated 13.8.1985 (Exh.AW1/E) between Antonia Fernandes and Rosa Coutinho. She also produced the Valuation Report prepared by AW.2 Ganriel Rodrigues.

4. The present appellants did not lead any evidence in rebuttal.

5. The Reference Court took the Sale Deed dated 13.8.1985 as the basis and after scaling down the sale consideration provided in the sale deed dated 13.8.1985 to 50% considered 10% increase in the land per year and, accordingly, fixed the market value at Rs.100/- per sq.m.

6. Aggrieved thereby the present appeal has been preferred.

7. I heard the learned Government Advocate. Nobody appeared for the respondent-claimant. The learned Government Advocate did not dispute that the subject matter of this First Appeal is identical to the subject matter of First Appeal No.32/1999 that was disposed of by me on October 6, 2005. She also submitted that in view thereof, this First Appeal does not require detailed discussion. From the evidence that has come on record, it is clear that the acquired land is at a distance of about 30 metres from the land that was subject matter of the Sale Deed dated 13.8.1985. Having considered the matter, I find that the evidence that has been produced by the present claimant, is identical to the evidence that was produced by the claimant in F.A. No.32/1999. In both these cases the Sale Deed dated 13.8.1985 was taken by the Reference Court as the basis for determining the market value of the acquired land in the year 1985. The land in both

the cases had been acquired for the same public purpose and under the Notifications issued and published almost simultaneously and by identical Judgment, the Reference Court decided the Reference. Without repeating the reasons that were indicated by me in the Judgment in F.A. No.32/1999 (State of Goa v. Joaquim Crasto), the reasons thereof may be considered as part of this judgment, I am of the view that the market value of the acquired land fixed by the Reference Court at the rate of Rs.100/- deserves to be upheld and I hold so.

8. Consequently, First Appeal is dismissed. Since the respondent has not chosen to appear, no order as to costs.

R. M. LODHA, J.

sl.